REMARKS/ARGUMENTS

The Examiner is thanked for the review of the application.

In the specification, the paragraphs at page 1 beginning at lines 12, 17, and page 2 beginning at lines 3 and 8, have been amended to include the serial numbers of the four co-pending and concurrently filed applications.

Claims 1-5 remain in this application. Claims 1-4 have been amended.

The Examiner has rejected claim 1-5 under 35 U.S.C. 101, stating that "the claimed invention is directed to a non-statutory subject matter. The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result."

Base claim 1 has been amended to include "the method being implemented as a plurality of program instructions in a computer system" and base claim 3 has been amended to include "the engine being implemented in a computer system", and hence amended base claims 1, 3 and dependent claims 2, 4, 5 are now all clearly directed to a statutory subject matter.

The Examiner has also rejected claim 3 under 35 U.S.C. 112, second paragraph, stating that claim 3 is "indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble of claim 3 recites 'modeling sales as a function of price'. However, the steps of the claim do not produce a model as a function of price. The claim is therefore indefinite since '...modeling sales as a function of price' is not further defined by the claim, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Because the term '...modeling sales as a function of price' is used and not further described, the entire claim and the scope of the invention unclear."

Claim 3 now recites "wherein imputed variables generated by the variable generator are used by the coefficient estimator to <u>create a sales model as a function of price</u>" (emphasis added), and amended claim 3 now distinctly claims the subject matter which applicants regard as the invention.

The Examiner has also rejected claims 3-5 under 35 U.S.C. 102(e) as being anticipated by Chavez et al (US 6,684,193), stating that Chavez et al discloses:

"A imputed variable generator, (col. 8, lines 22-27, [consumption distribution imputed {inferred} from components]);

A Coefficient estimator coupled to the imputed variable generator, and wherein imputed variables generated by the variable generator are used by the coefficient estimator to create a sales model, (col. 15, lines 6-14, [revenue coefficient]).

Chavez et al. does not specifically disclose the terms 'variable generator' or 'coefficient estimator', however, does disclose an engine (col. 18, lines 23-27) that produces the same results, and therefore represents the econometric engine that contains the 'variable generator' and the 'coefficient estimator'. Therefore, the 'variable generator' and the 'coefficient estimator' are inherent with Chavez et al."

Chavez does not teach nor suggest "an imputed variable generator <u>for generating imputed econometric variables including a base price variable and a base volume variable</u>" and the creation of a sales model <u>as a function of price</u> as recited by amended claim 3 (emphasis added). Support can be found in the specification on page 28, line 14, page 39, line 11, and Figure 10, step1023. Hence base claim 3 and dependent claims 4, 5 are all allowable over Chavez.

The Examiner has also rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over Ouimet et al (US 6,078,893), and further in view of Garg, (US 6,044,357), stating that Ouimet et al discloses:

"Creating a plurality of demand groups, wherein each demand group is a set of at least one product, and wherein at least one of the demand groups is a set of at least two products, (col. 5, lines 45-64, [shows demand is described for each item in a given group where the product is represented by the item, in this case, one of the demand groups being a set of at least two products is inherent since Ouimet et al discloses that 'each item in a give group' implies that there are more than one items in a group since the sales of 'one' item can depend upon the parameters of all the other items]);

Creating a sales model for each demand group, (col 6, lines 5-11, [shows a one-dimensional demand model which scales the amount of sales]);

Ouimet et al does not specifically disclose creating a market share model for each product in each demand group, however does disclose defining a new market model that represents and describes how the demand parameters are expected to vary, where the demand parameters relate to the products in each demand group, in col. 6, lines 17-25."

The Examiner also states that Garg discloses:

"Creating a market share model for each product in each demand group, (col. 5, lines 38-41, [market share model to characterize the demand distribution for each brand, in this case the group is represented by the brand]). Garg discloses this limitation in an analogous art for the purpose of showing that market share models are used to set base stock levels for inventory management.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to create a market share model for each product in each demand group with the motivation of providing representation of how the demand distribution is represented through products."

Claim 1 has been amended to recite "creating a sales model <u>as a function of price</u> for each demand group" (emphasis added). Since neither Ouimet '893 nor Garg '357 teach the creation of a sales model as a function of price, claim 1 is allowable over both cited references.

The Examiner has rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Ouimet et al (US 6,078,893) as applied to claim 1, and in further view of Garg (US 6,044,357), and in further view of Chavez et al (US 6,684,193) stating that "both Ouimet et al and Garg fail to disclose collecting raw data; and generating imputed variables from the raw data, wherein the imputed variables are used to create the sales model, but Ouimet et al does disclose generating a sales model in Col. 6, lines 5-11."

The Examiner also states that "Chavez et al discloses: collecting raw data; and generating imputed variables from the raw data, wherein the imputed variables are used to create the sales model, (col. 20, lines 24-32, [filtering and then identifying variables]). Chavez et al discloses this limitation in an analogous art for the purpose of identifying variables that go furthest in 'explaining' the uncertainty in the particular variable of interest."

Since Chavez '193 also does not teach nor suggest the creation of a sales model as a function of price, dependent claim 2 is also allowable over Ouimet '893, Garg '357 and Chavez '193 alone and in combination for at least the same reasons discussed above for claim 1.

In sum, base claims 1 and 3 have been amended and are now believed to be allowable. Dependent claims 2 and 4 have been amended and are now believed to be allowable. Dependent claim 5 which depends therefrom is also believed to be allowable as being dependent from its patentable parent claim 3 for at least the same reasons. The specification has been amended to include the serial numbers of the four co-pending and concurrently filed applications.

Applicants believe that all pending claims are allowable and respectfully request a Notice of Allowance for this application from the Examiner. The commissioner is authorized to charge any fees that may be due to our Deposit Account No. 50-2766 (Order No. DEM1P003). Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at telephone number 925-570-8198.

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Respectfully submitted,

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